

**DECLARATION OF MEXICO
LATIN AMERICAN SOCIAL-LABOUR CHARTER
TOWARD A PLANETARY SOCIETY WITH SOCIAL INCLUSION**

Latin American labour lawyers representing associations and groups belonging to the Latin American Association of Labour Lawyers (ALAL), meeting in the Regular General Assembly held in Mexico City on October 23, 2009, unanimously approve the following declaration:

The capitalist system is going through one of its worst crises, since the impact of the financial debacle has been transferred to the rest of the world economy. One of its worst consequences is the scourge of unemployment, which has broken various records in many countries. The International Labour Organization (ILO) itself has recognized that the crisis has swept away millions of jobs. During the current year, 61 million people were pushed into unemployment, and worldwide there are 241 million unemployed, which represents the largest number in history. In the United States, for example, unemployment has reached almost 10 per cent, the highest rate in several decades.

In its resolution "Recovering from the crisis: A global jobs pact," the ILO says that the global economic crisis and its aftermath "mean the world faces the prospect of a prolonged increase in unemployment, deepening poverty and inequality," at the same time that it forecasts that, according to the lessons of past experiences, "Employment has usually only recovered several years after economic recovery." This international body recognizes in its document that "The world should look different after the crisis" – and, we add, better.

But we would be naïve if we thought that the crisis of the social and economic order that now exists in the vast majority of the countries of the planet is solved by saving the banks from ruin, through the transfer of billions of dollars contributed, clearly, by the contributors in each country. It is even more naïve to think that the solution will be greater regulation of the global financial markets, an absolutely necessary measure, but one also absolutely insufficient to achieve the "different world" proposed by the ILO.

The true crisis of the capitalist system is the more than one billion human beings who, according to the Food and Agriculture Organization of the United Nations (FAO), suffer from hunger and malnutrition. The crisis is the forty per cent of the world population that subsists on less than two dollars per day. It is the thirteen per cent who have no access to sources of clean water and the thirty-nine per cent who do not have running water or a bathroom in their house. The system is in crisis because of the tremendous social inequality that it has generated, permitting twenty per cent of the inhabitants of the planet to possess seventy-five per cent of the wealth, while the forty per cent that occupies the base of the social pyramid possesses only five per cent. The system is in crisis because, for example, more than half of the world population does not have access to an adequate healthcare system.

The system is certainly in crisis because it produces the wealthy who are increasingly wealthy, at the expense of the poor, who are becoming poorer, not as an unexpected consequence, but as a natural and logical consequence of the principles and values on which it is based. This tremendous social inequality is worsened by the shameless ostentation of wealth and power by the privileged minority. Social sectors dedicated to consumerism and to enjoyment and who live with abundance, who have not the least embarrassment to exhibit their immoderate dedication to pleasure in the face of those who suffer misery, poverty and social exclusion.

Capitalism has generated a society that is materialist and uncaring, that is not moved in the face of profoundly unjust situations that capitalism itself promotes in a shameful and inhuman manner. An abject individualism that orders and subordinates all to individual gain, which with impunity runs roughshod over the rights of others. A social class, particularly in Latin America, which is in the minority but is rich and powerful, and which monopolizes production, commerce and finances, and which, for its own comfort and benefit, makes use of all resources. That enjoys an enormous influence in all the powers of the State, which it uses to maintain its privileges and to repress any threats to them. In not a few Latin American countries a handful of families own all the property and resources, pushing the immense majority of the people into poverty and marginalization.

It is clear, then, that capitalism, in relation to the aim of every social order to be just, has failed. But the fall of the Berlin Wall and the collapse of the so-called "real socialism," has left a void that has not yet been able to be filled: the absence of an alternative social model, based on different principles and values. And in this, we labour lawyers are in default with our people.

Without a doubt, the moment has arrived to set defensive attitudes and nay-saying aside, to move to a stage of starting to design a new social order that is just and caring, which our people deserve. For this, it is necessary to convince ourselves that there is nothing that requires the view that the existing social system has reached total and definitive hegemony. The dominant ideology has tried to convince us that with neoliberalism history has reached its goal, and any questioning of it is absurd and irrational. The current crisis of the capitalist system proves the falsehood of that slogan.

Of course it is clear that between the failure of one social model and its replacement by another there is a long way. It is one thing to become aware of the exhaustion of the neoliberal model, and quite another to offer a credible and inviting alternative. For this we have to establish with clarity the foundational principles of the new social order for which we yearn, creating a concrete and realistic agenda of policies and initiatives. A project for the 21st Century, that would place the worker centre-stage, and which would do away with the scourge of unemployment, that would propose an equitable distribution of income, that would deepen democracy, and that would make social justice a reality.

Toward such end, the Latin American Association of Labour Lawyers (Asociación Latinoamericana de Abogados Laboralistas) has for some time been proposing the building of a new paradigm of labour relations, that would constitute non-derogable, minimum basic rights for all Latin American workers. A global response to the global crisis of the capitalist system. A Social-Labour Charter for Latin America, as a step prior to a planetary Social Constitution.

There is no other region of the world in which there exist better conditions for an effective process of social, economic and political integration. Nevertheless, we are in default of fulfilling something that is imperative and which emanates from our own historical roots and cultures, of which all our national heroes and forbears dreamed. Powerful international economic interests, and the cultural colonization of our ruling classes, explain this phenomenon.

But Latin America has one common destiny, as demonstrated by the historical processes taking place over the last six centuries. The ferocious neoliberal offensive against workers' rights that all of our countries suffered in the 1990s should be evidence enough of the imperative necessity of organizing ourselves to establish a strategy of resistance against new attempts at domination and exploitation that certainly are approaching, and to construct a model alternative to the current one.

There is an exceptional political situation in Latin America. With their distinct realities and contradictions, Cuba, Nicaragua, Ecuador, Venezuela, Brazil, Argentina, Uruguay, Paraguay, and Bolivia are experiencing political processes which, with more or less intensity, seek to replace the social model of the 1990s.

The Latin American Social-Labour Charter should establish, in the first place, the free circulation of persons, eliminating whatever discrimination for reasons of nationality. And it should fix a common denominator for the level of protection of workers' rights, that works as a protective barrier against the new attacks that neoliberalism will attempt, perhaps dressed with new clothes which attempt to hide its scourges and squalor.

We propose a supra-national labour legislation that contains fully operative and immediately applicable norms, in order not to repeat the tragic experience of our peoples of rights and constitutional guarantees which have been proclaimed loudly but never become reality.

The Latin American Social-Labour Charter should consecrate the right to decent work as a fundamental human right. A capitalist economic system of private accumulation offers a single route, to those who are not the owners of the means of production, to have access to survival consumption: the renting of their labour to obtain remuneration that afterwards can be exchanged for goods and services. This means that, on the one hand, the worker is caught in the system, and, on the other hand, that he or she can aspire to a minimum of social legitimacy only if all workers are guaranteed a job with a decent level of remuneration.

The legal order, that strives to be a just and peaceful system of social organization, should, as a consequence, guarantee to workers stable work that enables them to have a vital project, that is, the possibility to construct a life-plan that allows them to think, based on a firm foundation, in a future felt as hope.

From this premise spring several labour rights that, we repeat, are fundamental human rights. First, the right of work, which includes the right not to be deprived of work without just cause. Secondly, the guarantee of remuneration, from which is derived the obligation on all those who in the chain of production benefit from the work of others to respond with solidarity where there is lack of pay. This is without prejudice to the obligation of States to create special funds to cover possible insolvency of the employer. A decent wage, on the other hand, is not only that which permits the worker to cover his or her needs and those of his or her family, but also that which contemplates increasing participation in the wealth generated by human work.

But all these rights would be mere fantasy if workers are not guaranteed the possibility of organizing themselves to defend them. For this, legislation must guarantee freedom of association and internal democracy. Strong unions and authentically representative trade union leaders, democratically elected, who are channels for the demands of the membership and not spokespersons of the powerholders, are the only guarantee of the effectiveness of labour rights. Trade union representatives must have the protection necessary to carry out their mandates, without fear of reprisals that could affect their jobs or their working conditions. Further, there should be prohibitions against all kinds of discrimination or sanctions against any worker or trade union activists because of the legitimate exercise of their trade union rights.

Lamentably, we observe that in many Latin American countries ILO Conventions Nos. 87, 98 and 102, on Freedom of Association, Collective Bargaining, and Social Security, are systematically violated. Mexico is a clear example of this. Political power and economic power, through practices that we can characterize as mafia-like, intend to prevent workers from freely building their organizations and electing authentically representative leaders. In Colombia the situation is even worse, and the life and liberty of trade union activists is not worth anything.

It is in this context that the Latin American Association of Labour Lawyers proposes to the workers' movement and to all Latin American governments approval of a Latin American Social-Labour Charter that would contain the following rights and guarantees, among others:

- 1) Free mobility of persons within the common area, without discrimination based on nationality and with equality of rights;
- 2) Labour relations that are democratic and without discrimination of any kind, such that the worker, a citizen of society, will also be so in the enterprise;
- 3) Rights to information and consultation in all areas relating to life in the enterprise that could affect the workers;
- 4) The right to a stable job, and prohibition of and voiding of arbitrary or unjust dismissal;
- 5) The right to decent work that should, at minimum, comply with ILO norms;
- 6) The right to decent pay, which will cover the needs of the worker and his or her family and that will, in addition, take into account the benefits obtained by the employer;
- 7) The right to a real and effective workday of limited hours of work. States should exercise, with the effort required and adequate means, its regulatory powers to prevent violations of the maximum hours of work;
- 8) The right to professional development;
- 9) The right to Social Security that will cover the basic needs of the worker and his or her family, in the face of the social contingencies that can affect his or her income. The Social Security should be a function of the State that cannot be delegated, so that the process of privatization that our countries suffered in the decade of the 90s must be turned back;
- 10) Institutionalization of a Basic Citizen's Income, as a right of every person, without regard to race, sex, age, civic or social condition, to receive an income to meet his or her basic needs;
- 11) Right to the effective protection of the health and life of the worker, in the face of workplace hazards. Administration of a system for the prevention and compensation of injuries caused by workplace accidents must not be in the hands of private, for-profit operators;
- 12) The right to free and democratic trade union organization;
- 13) The right to collective bargaining, nationally and trans-nationally;
- 14) The right to strike, including the diverse forms of pressure and protest, without regulatory restrictions that would limit or nullify it;
- 15) Real and effective labour protection for domestic and agricultural workers;
- 16) Guarantee of payment of wage claims, establishing the responsibility of all in the chain of production who take advantage of or benefit from the paid workforce;
- 17) Creation of funds that will cover cases of employer bankruptcy;
- 18) Guarantee of a justice system specializing in labour law, with procedures that are based on the principle of protection;
- 19) Protection for trade union representatives and activists against reprisals that could affect their jobs or working conditions;
- 20) Principle of progressiveness, which means not only the prohibition of social regression, but also the commitment of States to move progressively toward the fulsome effectiveness of labour human rights.

Our proposal is not utopian. It is the challenge to navigate with hope, even in the midst of stormy seas, toward the integration of Latin America; toward the Great Homeland of which the heroes of the independence struggles dreamed. A struggle that has not finished and that finds us on the front lines of the battle for the emancipation of our peoples.

Mexico City, October 23, 2009

(Translated by:
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